

ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending Section 27.71.120 of the Lincoln Municipal Code to  
2 approve temporary concrete paving plants; and repealing Section 27.71.120 of the Lincoln  
3 Municipal Code as hitherto existing.

4           BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

5           Section 1. That Section 27.71.120 of the Lincoln Municipal Code be amended to  
6 read as follows:

7   **27.71.120 Temporary Buildings and Fences; Temporary Paving Plants; Temporary**  
8   **Concrete Batch Plants.**

9           (a) Temporary buildings that are used in conjunction with construction work only may be  
10 permitted in any district during the period that the building is being constructed, but such temporary  
11 building shall be removed upon completion of the construction work. Temporary fences used in  
12 conjunction with construction work only are permitted under the following conditions:

13           (1) Not to exceed ninety-six inches in height;

14           (2) Only permitted to protect construction work and materials;

15           (3) May be permitted on any part of a lot but not encompassing any greater area  
16 than necessary to provide protection to the construction work or materials and encompassing only  
17 that part of a lot necessary to allow construction activity and access around the structures;

18           (4) Shall be removed upon completion of the construction work or the availability of  
19 other protection within the lot. On lots or areas in which more than one building will be under  
20 construction, the area enclosed by the fence shall be reduced as construction proceeds.

21           (5) Such temporary fence shall not obstruct the visibility of the construction site nor  
22 prevent access to the site by emergency vehicles.

1 (6) No fence shall be erected within that triangular area required for sight distance  
2 of vehicles entering or exiting the property or entering an adjacent intersection in conformance with  
3 the "design standards" and "guidelines and regulations for driveway design" of the city.

4 (b) Temporary paving plants used for the paving of federal or state highways or county  
5 roads are permitted in any zoning district during the project construction period under the following  
6 conditions:

7 (1) The plant shall be located outside the city limits on premises abutting the specific  
8 construction project and having access to a paved road.

9 (2) The boundaries of the property used for the plant shall be located no closer than  
10 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility,  
11 hospital, motel, or park.

12 (3) The permittee shall require its suppliers to use paved roads or other designated  
13 truck routes approved by the County Engineer for the delivery of supplies to the paving plant.

14 (4) Paving material prepared at the plant shall not be transported to any location  
15 other than the abutting project.

16 (5) The plant shall be removed upon substantial completion of the construction  
17 project.

18 (c) Temporary concrete paving plants. Temporary concrete paving plants are permitted  
19 in any zoning district by administrative permit issued by the Planning Director. The Planning  
20 Director shall not issue a permit or renew a permit without written approval by the Director of the  
21 Lincoln-Lancaster County Health Department and the Director of the Public Works and Utilities  
22 Department.

23 (1) Applications for an administrative permit shall include:

24 (i) A site plan showing the entire limits of the permit area including the plant  
25 location, material storage areas, and the ingress/egress;

1                   (ii) A dust control and suppression plan including the plant operations and haul  
2 roads to and from plant to project;

3                   (iii) A description or manufacturer's specification regarding particulate control  
4 equipment;

5                   (iv) A copy of a signed contract or other verification that the applicant is under  
6 contract to supply concrete for a city arterial street paving project;

7                   (v) A noise control plan that will allow the operation to comply with Chapter  
8 8.24 of the Lincoln Municipal Code.

9                   (vi) A copy of a signed lease or other verification that the applicant has  
10 permission of the owner of the land upon which the plant shall be located to locate the plant  
11 thereon.

12               (2) The administrative permit shall be issued under the following conditions:

13                   (i) The plant site shall be approved by the City Engineer or if outside the city  
14 limits by the County Engineer and shall be located in the general vicinity of the specific arterial  
15 street paving project or projects and have access to a paved road;

16                   (ii) The boundaries of the property used for the plant shall be located no closer  
17 than 300 feet from an occupied dwelling or from any school, church, library, early childhood care  
18 facility, hospital, motel, or park;

19                   (iii) The permittee shall require its suppliers to use only paved roads approved  
20 by the Director of Public Works or the County Engineer as the case may be, for the delivery of  
21 supplies to the plant. The permittee shall further require that the drivers of concrete trucks leaving  
22 the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved  
23 on a case-by-case basis by the Director of Public Works or the County Engineer;

24                   (iv) The permit site shall be cleaned up and restored to its pre-permit condition  
25 within thirty days following the completion of the project. Restoration includes replanting of

1 vegetation and maintenance of erosion and sediment control until the site is reestablished. Any  
2 paved or unpaved road damaged by the permittee's use of such road, including permittee's  
3 suppliers and concrete trucks entering and/or leaving the plant, shall be repaired at permittee's cost  
4 and expense;

5 (v) All concrete produced by this plant shall be used to complete the project.  
6 The concrete shall not be provided for concrete work to be performed by persons other than the  
7 permittee;

8 (vi) The anticipated set up and removal dates shall be identified on the  
9 application. Amendments to these dates must be requested to the Planning Director in writing;

10 (vii) The applicant shall submit a performance bond satisfactory to the City  
11 Attorney in the minimum amount of \$5,000, or an amount determined by the City to be sufficient,  
12 to guarantee performance and clean up of the permit site and to pay for repairs to paved and  
13 unpaved roads damaged by permittee's use of such roads.

14 (3) Permits issued pursuant to this section shall expire on the completion date of  
15 the project as set forth in the permit application. The Planning Director may extend the expiration  
16 date by administrative amendment upon a showing that the project completion is delayed or that  
17 the permittee has contracted for another project in conformance with subparagraph (a) above.

18 (e d) Temporary concrete batch plants. Temporary concrete batch plants are permitted in  
19 any zoning district by administrative permit issued by the Planning Director. The Planning Director  
20 shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-  
21 Lancaster County Health Department.

22 (1) Applications for the administrative permit shall include:

23 (i) A site plan showing the entire limits of the permit area including the plant  
24 location, material storage areas, and the ingress/egress;

1 (ii) A dust control and suppression plan including the plant operations and haul  
2 roads to and from plant to project;

3 (iii) A statement indicating the typical hours of operation. The plant may  
4 operate no more than fourteen hours per day, except on New Year Day, Memorial Day, the 4th of  
5 July, Labor Day, Thanksgiving Day, and Christmas when the operation shall not begin before noon;

6 (iv) A description or manufacturer's specification regarding particulate control  
7 equipment;

8 (v) A copy of a signed contract or other verification that the applicant is under  
9 contract to supply concrete for a project requiring at least 3,000 yards of concrete located within  
10 the same section or one mile of the permitted plant. The contract or other verification shall include  
11 the commencement and ending dates of the project. The Planning Director may increase the one-  
12 mile distance limit to no more than two miles if necessary to avoid routing trucks through local  
13 streets or inadequate county roads, or locations near occupied dwellings, schools, libraries,  
14 churches, or other noise or dust sensitive uses; and

15 (vi) A noise control plan that will allow the operation to comply with Chapter  
16 8.24 of the Lincoln Municipal Code.

17 (vii) A copy of a signed lease or other verification that the applicant has  
18 permission of the owner of the land upon which the plan shall be located to locate the plant  
19 thereon.

20 (2) The administrative permit shall be issued under the following conditions:

21 (i) The plant shall be located on premises in the same section or within one  
22 mile of the project identified on the application or as authorized under subparagraph (ed)(1)(v)  
23 above;

1 (ii) The silo, batch plant, and aggregate storage shall be located no closer than  
2 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility,  
3 hospital, motel, or park;

4 (iii) The permittee shall require its suppliers to use only paved roads approved  
5 by the Director of Public Works or the County Engineer as the case may be, for the delivery of  
6 supplies to the concrete batch plant. The permittee shall further require that the drivers of concrete  
7 trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may  
8 be approved on a case-by-case basis by the Director of Public Works or County Engineer.  
9 Additional bonding may be required to pay for repairs of damage to such nonpaved roads;

10 (iv) The plant shall be removed upon completion of the project identified in the  
11 application; or upon construction and occupancy resulting in a violation of subparagraph (e)(2)(ii)  
12 above. The permit site shall be cleaned up and restored to its pre-permit condition within thirty  
13 days following the completion of the project;

14 (v) All concrete produced by this plant shall be used to complete the project,  
15 except that the permittee may use the concrete product for sidewalks, driveways, foundations,  
16 parking lots, and other small concrete work to be performed by the permittee. The concrete shall  
17 not be provided for concrete work to be performed by persons other than the permittee. The  
18 amount of concrete produced for small concrete work shall not exceed fifty percent of that  
19 produced for the project;

20 (vi) The plant shall be recalibrated to the satisfaction of the Public Works and  
21 Utilities Department prior to construction of any public improvement using concrete produced by  
22 this plant;

23 (vii) The anticipated set up and removal dates shall be identified on the  
24 application. Amendments to these dates must be requested to the Planning Director in writing;

1 (viii) The applicant shall submit a performance bond satisfactory to the City  
2 Attorney in the amount of \$5,000 to guarantee performance and clean up of the permit site.

3 (3) Permits issued pursuant to this section shall expire on December 31 of each year  
4 or the completion date of the project as set forth in the permit application, whichever is earlier. The  
5 Planning Director may extend the expiration date by an administrative amendment upon a showing  
6 that the project completion is delayed by weather or other causes beyond control of the permittee,  
7 or that the permittee has contracted for another project in conformance with subparagraph (a)  
8 above; however, no extension of the expiration date may extend the permit beyond December 31  
9 of the year of issuance. Renewal of a previously issued permit shall be by application in the same  
10 form as the original permit.

11 (4) The Planning Director may revoke the temporary permit for any one or more of  
12 the following violations:

13 (i) Failure to operate the facility in accordance with the provisions of this  
14 section or with the approved application;

15 (ii) A violation of any city, county, state, or federal law;

16 (iii) Denial of access to the site to determine compliance with this section;

17 (iv) Unreasonable noise or disturbance to the surrounding neighborhood;

18 (5) The action of the Planning Director in approving, denying, refusing to renew or  
19 revoking a permit pursuant to this section may be appealed. Any aggrieved person may appeal  
20 the action of the Planning Director to the Planning Commission by filing notice of appeal with the  
21 Planning Director within fourteen days following the decision of the Planning Director. Final action  
22 by the Planning Commission may be appealed to the City Council by any aggrieved person by filing  
23 notice of appeal with the City Clerk within fourteen days following the action by the Planning  
24 Commission.

1                   Section 2. That Section 27.71.120 of the Lincoln Municipal Code as hitherto existing  
2 be and the same is hereby repealed.

3                   Section 3. That this ordinance shall take effect and be in force from and after its  
4 passage and publication according to law.

Introduced by:

---

Approved as to Form & Legality:

---

City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2004:

---

Mayor